

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

DANIEL RODRIGUEZ,

Plaintiff,

vs.

No. CIV 21-0041 JB/SCY

STATE OF NEW MEXICO; CURRY
COUNTY DETENTION CENTER;
MAGISTRATE COURT OF CLOVIS N.M.;
RIO LAW FIRM and LAW FIRM OF THE
PUBLIC DEFENDER,

Defendants.

MEMORANDUM OPINION AND ORDER

THIS MATTER comes before the Court sua sponte under rule 41(b) of the Federal Rules of Civil Procedure on (i) Plaintiff Daniel Rodriguez' Letter, filed January 1, 2021 (Doc. 1)(“Complaint”); (ii) its Order to Cure Deficiencies, filed January 20, 2021 (Doc. 3)(“Cure Order”); and (iii) its Order to Show Cause, filed January 29, 2021 (Doc. 5)(“Show Cause Order”). The Court will dismiss the Complaint without prejudice for failure to comply with Court orders, statutes, and rules, and for failure to prosecute.

The record reflects that all of the mailings sent by the Court to Plaintiff Daniel Rodriguez were returned as undeliverable. See Mail Returned as Undeliverable, filed January 28, 2021 (Doc. 4); Mail Returned as Undeliverable, filed February 1, 2021 (Doc. 6); Mail Returned as Undeliverable, filed February 3, 2021 (Doc. 7); Mail Returned as Undeliverable, filed February 11, 2021 (Doc. 8). Curry County Detention Center records indicate that Rodriguez was released from custody without advising the Court of his new address, as D.N.M. LR-Civ. 83.6 requires, thus Rodriguez severed contact with the Court. The Honorable Steven C. Yarbrough, United

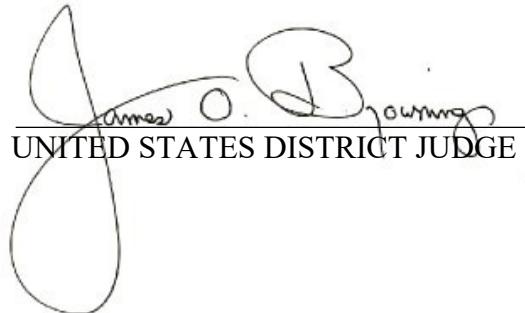
States Magistrate Judge for the United States District Court for the District of New Mexico, issued the Show Cause Order on January 29, 2021, directing Rodriguez to notify the Court of a new address, or otherwise to show cause why the case should not be dismissed, within thirty days of entry of the Show Cause Order. See Show Cause Order at 1. More than thirty days have elapsed since entry of the Show Cause Order and Rodriguez has not provided the Court with a new address, responded to the Court's Order, or otherwise shown cause why the case should not be dismissed.

Magistrate Judge Yarbrough entered an Order to Cure Deficiencies on January 20, 2021, notifying Rodriguez that his Complaint was not in proper form, and that he had failed to pay the filing fee or submit an application to proceed in forma pauperis. See Cure Order at 1-2. The Cure Order granted Rodriguez thirty days to cure the deficiencies in his filing. See Cure Order at 2. The copy of the Cure Order mailed to Rodriguez was returned as undeliverable, see Mail Returned as Undeliverable, filed January 28, 2021 (Doc. 4), and he has never responded to the Cure Order. Rodriguez has taken no action to prosecute this proceeding since the date he filed this action with the Court.

Pro se litigants are required to follow the federal rules of procedure and simple, nonburdensome local rules. See Bradenburg v. Beaman, 632 F.2d 120, 122 (10th Cir. 1980). The local rules require litigants, including prisoners, to keep the Court apprised of their proper mailing address and to maintain contact with the Court. See D.N.M. LR-Civ. 83.6. Rodriguez has failed to comply with D.N.M. LR-Civ. 83.6, the Cure Order, and the Show Cause Order. The Court may dismiss an action under rule 41(b) of the Federal Rules of Civil Procedure for failure to prosecute, to comply with the rules of civil procedure, or to comply with court orders. See Fed. R. Civ. P. 41(b); Olsen v. Mapes, 333 F.3d 1199, 1204 n.3 (10th Cir. 2003)(“Rule [41] . . . permit[s] courts to dismiss actions *sua sponte* for a plaintiff’s failure to . . . comply with [civil rules and] court

orders.”). The Court, therefore, dismisses this civil proceeding pursuant to rule 41(b) for failure to comply with the court orders, and for failure to prosecute. See Fed. R. Civ. P. 41(b); Olsen v. Mapes, 333 F.3d at 1204 n.3.

IT IS ORDERED that: (i) Plaintiff Daniel Rodriguez’ Letter, filed January 1, 2021 (Doc. 1), is dismissed without prejudice; and (ii) the Court will enter a separate Final Judgment disposing of this case.



UNITED STATES DISTRICT JUDGE

Parties:

Daniel Rodriguez
Clovis, New Mexico

Plaintiff pro se